

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

ROBERT TAYLOR,)
Petitioner,)
v.) No. 1:25-cv-00043-SRW
STE. GENEVIEVE COUNTY JAIL,)
Respondent.)

MEMORANDUM AND ORDER

This matter is before the Court upon review of self-represented Petitioner Robert Taylor's "Motion under 28 U.S.C. §2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody." ECF No. 1. Based on this document, Petitioner initiated this action to contest a criminal sentence issued from a Missouri state court on January 17, 2025. *Id.* at 1 (citing case number "22SF-CR00502-01"). Independent review of Plaintiff's criminal case on Missouri Case.net, the State of Missouri's online docketing system, shows that Plaintiff Robert William Taylor was sentenced on January 17, 2025, to a total term of 94 years with the Missouri Department of Corrections. *State v. Taylor*, No. 22SF-CR00502-01 (24th Jud. Cir. filed August 12, 2022).

Section 2255 relief is only available to prisoners in custody under the sentence of a United States Court. 28 U.S.C. § 2255. Because Petitioner is not in federal custody and he does not seek relief from a federal sentence, this case is not properly brought under 28 U.S.C. § 2255. Instead, it appears that Petitioner is a convicted and sentenced state court prisoner seeking relief from a state court judgment. Such relief is properly sought under 28 U.S.C. § 2254. As such, the Clerk of Court will be directed to send Petitioner a blank "Petition Under 28 U.S.C. § 2254 for

Writ of Habeas Corpus by a Person in State Custody.” Petitioner should file an amended petition on this Court form within **thirty (30) days** of the date of this Order, if he wishes for this case to proceed. *See* E.D. Mo. Local Rule 2.06(A) (“All actions brought by self-represented plaintiffs or petitioners should be filed on Court-provided forms where applicable.”).

Petitioner should be aware that in order to bring a habeas action pursuant to § 2254 before this Court, he must have exhausted his state court remedies prior to doing so. *See Frederickson v. Wood*, 87 F.3d 244, 245 (8th Cir. 1996). Given that Petitioner was just sentenced a few months ago, it seems unlikely that he has exhausted all state court appeals. Petitioner is warned that if he files a motion under § 2254, any future § 2254 motions will be subject to the restrictions on filing second or successive motions. That is, Petitioner will not be permitted to bring a second or successive § 2254 motion unless the United States Court of Appeals for the Eighth Circuit certifies that the second or successive motion meets the requirements set forth in 28 U.S.C. § 2244(b)(3)(A).

Finally, Petitioner has neither paid the filing fee nor submitted a motion to proceed without prepaying fees or costs. Local Rule 2.01(B) authorizes the Clerk of Court to refuse to receive any pleadings “until the applicable statutory fee is paid, except in cases accompanied by a completed application to proceed in forma pauperis.” The Court will direct the Clerk of Court to send Petitioner the Court’s form “Motion to Proceed In Forma Pauperis and Affidavit in Support – Habeas Cases.” Petitioner must either pay the \$5 filing fee or submit this form motion within **thirty (30) days** of the date of this Order.

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court shall mail to Petitioner a copy of the Court’s forms “Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in

State Custody" and "Motion to Proceed In Forma Pauperis and Affidavit in Support – Habeas Cases."

IT IS FURTHER ORDERED that if Petitioner wants to pursue habeas relief in this Court under 28 U.S.C. § 2254, he should file an amended petition on the Court-provided form within **thirty (30) days** of the date of this Order. Petitioner is advised that his amended petition will take the place of his original petition and will be the only pleading that this Court will review.

IT IS FURTHER ORDERED that Petitioner shall either pay the \$5 filing fee or submit the "Motion to Proceed In Forma Pauperis and Affidavit in Support – Habeas Cases" within **thirty (30) days** of the date of this Order.

IT IS FINALLY ORDERED that if Petitioner fails to comply with this Order, the Court will dismiss this action without prejudice and without further notice.

Dated this 12th day of March, 2025.



STEPHEN R. WELBY
UNITED STATES MAGISTRATE JUDGE